

**Zoning Board of Adjustment
1200 Mountain Ave., Middlesex, NJ 08846
Regular Meeting Minutes
March 16, 2016
7:30 PM**

1. Call to Order

Chairperson Thompson called the meeting to order at 7:34pm.

2. Open Public Meeting Act Statement

Chairperson Thompson read the Open Public Meeting Act Statement.

3. Roll Call

Upon the call of the roll the following members were present:

John Anello Dec/2016 [present]	Guy Hoyt Dec/2017 [absent]
Leonard Jackson Dec/2017 [present]	Anthony Thompson Dec/2018 [present]
Jeff First Dec/2018 [present]	Anthony Vietri Dec/2017 [present]
John Fuhrmann [absent]	John Segarra(1st Alt) (Dec/2018)[present]
Mike Jones (2nd Alt) Dec 2017 [present]	

Also present were: Board Attorney- Ms. Joan Dowling
Board Planner- Mr. Uzo Ahirakwe

4. Minutes

Member Segarra made a motion to approve the minutes from the March 2, 2016 meeting, seconded by Member Anello. Vote: Member Anello-yes, Member Jackson-yes, Member Vietri-yes, Chairperson Thompson- yes, Member Segarra-yes, Member Jones-yes, Member First-abstain. Motion passed.

5. New Business

**Z2015-10
Quick Chek
107 Harris Ave/ 440 Union Ave
Block 173 Lots 1 & 1.02**

Interpretation

Mr. Mamora updated the Board on the easement regarding the approved McDonald's property.

Mr. Mamora stated that Quick Chek is located behind the Delta Cleaners.

Quick Chek wants to acquire the Delta lot and offer gas services.

Mr. Mamora stated that this property is located in the GB (general business) zone.

Quick Chek is proposing to have the convenience store with gas sales as was done in the 1950's to have a gas station and general store.

Mr. Mamora stated that there will be no auto repair, never has been part of Quick Chek.

Mr. Mamora stated that the gas would only be open when the store is open.

Mr. Mamora stated that the GB zone permits retail shopping as per Ordinance 420-54 A (1)

A.
Permitted principal uses. No building, structure or premises shall be used and no building or structure shall be erected or structurally altered, except for the following uses:

(1)
Retail shopping facilities and service establishments where commodities are sold or services provided primarily for a local market, such as:

and 420-54 A (2)

(2)
Retail shopping facilities and service establishments servicing a widely distributed clientele over a broad market area such as

and conditionally permitted as per section 420-7

GASOLINE SERVICE STATION

An area of land, including structures thereon, that is used primarily for the retail sale and/or direct delivery to motor vehicles of gasoline and lubricating oil and the making of minor repairs, but not auto body work, welding or painting, nor any repair work in the open.

Mr. Mamora stated that the key words are primarily, and/or direct delivery.

Mr. Mamora stated that the primarily use is a convenience store/gas station and that there will be no minor repairs of vehicles (in reference to the definition).

Mr. Mamora stated that case law states that the convenience store and sale of gas are a combined use. He referenced Easy Auto Service vs. Plumstead.

Mr. Mamora stated that he acknowledges a site plan will need to be filed but would be at the Planning Board.

At this time Mr. John Mamora stated his name for the record, as the Attorney representing Quick Chek.

Ms. Dowling duly swore in the Planner, Justin Auciello, Cofone, 125 Half Mile Rd Suite 200, Red Bank, NJ 07701.

Mr. Auciello stated his education and credentials.

The Board accepted Mr. Auciello as an expert witness.

Mr. Auciello stated that there is one use, a retail use and the two retail uses are intertwined.

Mr. Auciello explained why this is not a gasoline service stations and the case law backs this trend across America as one permitted use.

Chairperson Thompson opened the meeting for questions from the Board Members.

Member Jackson questioned since the Quick Chek is open 24 hrs will the gas station be open 24 hours also.

It was confirmed that the gas station will be open 24 hours as the convenience store is open 24 hours.

Ms. Dowling duly swore in the Real Estate Manager for Quick Chek, Bob Vallario, 3 Old Hwy, Whitehouse Station NJ.

Mr. Vallario stated that there would be 2 employees, and 1 employee for gas during the night.

Mr. Vallario was asked who owns the property now, he stated that Delta owns the property and Quick Chek would combine the two lots.

Member Anello needed a clarification of the ordinance.

Member Jackson stated that it was a retail store; they do sell oil but can't put it in the vehicle.

Member Segarra questioned if you would be able to purchase the oil inside.

It was stated that a person could buy oil inside and that nothing would be displayed at the gas pumps.

Member Segarra questioned if there would be an air service and vacuum.

Mr. Vallario stated that there would be air service and vacuum.

Mr. Vallerio stated that NJ is the last state where you have an attendant to pump gas, 84% of gas is sold through convenience stores, courts recognize as a single use (bundled shopping- banking/deli/coffee/fuel) and is not a service station.

Member Vietri confirmed that Quick Chek would have to file a site plan.

Member Anello questioned how much gas was sold on an average day.

Mr. Vallario stated that a tanker truck holds 9,000 gal and hoping to sell that every day.

Member Jackson asked if there would be diesel gas.

Mr. Vallario stated that there would be diesel gas but due to low flow there would be no big trucks.

Member Vietri asked if the gas sales are below what is projected what would happen.

Mr. Vallario stated that as long as the convenience store is open they will sell gas.

The Board reviewed the Planning Report from Michael Cole and Associates.

Mr. Ahirakwe reviewed the uses on page 3 of the report, ordinances, and the definitions of a gasoline service station.

Mr. Mamora compared the Quick Check site to the Costco on Route 22 selling gas.

Chairperson Thompson opened the meeting for questions to the Board Planner, there being no questions the application continued.

Chairperson Thompson opened the meeting for public comment, there being no public comments the application continued.

Member Anello made a motion to discuss before a decision is made.

The Board reviewed the request to interpret the ordinance if it is a gas service station or retail store.

Member Jones stated that the site used to be a service station.

Member Anello stated that Quick Chek is correct, the word repairs is the key word, and they will not be making any repairs to vehicles.

Member Jackson stated that it is a combined use.

Member Jones agreed that it is a convenience store.

Members Segarra, Vietri, First, Jones and Chairperson Thompson agreed with Member Anello stating that Quick Chek will not be making any repairs.

Member Anello made a motion that the Board agrees that it is not a gas service station they will not be making repairs on site, seconded by Member Vietri. Vote: Member Anello-yes, Member Jackson-yes, Member Vietri-yes, Member First-yes, Member Thompson-yes, Member Segarra-yes, Member Jones-yes. Motion approved.

**Z2015-09
770 Bound Brook Rd LLC
770 Bound Brook Rd.
Block 225 Lots 1, 3, 25, 27**

Interpretation

The Board received correspondence asking to adjourn the hearing to April 6, 2016 meeting. The Board agreed to carry to the April 6, 2016 and no further notices to be heard.

6. Correspondence

There was no correspondence at this time.

7. Board Member Comments

A. Review Draft letter regarding RFP

The Board reviewed the draft letter prepared by Member Anello. The Board discussed the letter. Ms. Dowling will rewrite the letter and incorporate the changes. The Board will review at the next meeting and can take formal action once it is finalized.

There being no further Board comments, Chairperson Thompson opened the meeting to the public. There being no public, he closed the public portion of the meeting.

There being no further business Member First made a motion to adjourn the meeting at 8:55pm, seconded by Member Anello. Vote: All in favor. Meeting adjourned.

Secretary

Karen Wick, Board Clerk